

starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period, and rounded to the nearest whole number of NO_x allowances as appropriate.

(B) The NO_x authorized account representative shall ensure that the compliance account of the NO_x Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_x Budget source where the unit is located, contains the NO_x allowances necessary for completion of the deduction under paragraph (b)(1)(ii)(A) of this section. If the compliance account or overdraft account does not contain the necessary NO_x allowances, the Administrator will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(iii)(A) For every control period during which the NO_x Budget permit revised under paragraph (b)(1)(i) of this section is in effect, the NO_x Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO_x allowance allocations under § 97.42, as a unit that commenced operation on the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO_x allowances under § 97.42. The unit's deadline under § 97.84(b) for meeting monitoring requirements in accordance with subpart H of this part shall not be changed by the change in the unit's regulatory status or by the revision of the NO_x Budget permit under paragraph (b)(1)(i) of this section.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO_x allowances will be allocated to the NO_x Budget unit under paragraph (b)(1)(i) of this section under § 97.42 for the control period: the number of NO_x allowances otherwise allocated to the NO_x Budget unit under § 97.42 for the control period multiplied by the number of days in the control period starting with the effective date of the permit revision

under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period, and rounded to the nearest whole number of NO_x allowances as appropriate.

(2)(i) When the NO_x authorized account representative of a NO_x Budget opt-in unit does not renew its NO_x Budget opt-in permit under § 97.83(b), the Administrator will deduct from the NO_x Budget opt-in unit's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in unit is located, NO_x allowances equal in number to and allocated for the same or a prior control period as any NO_x allowances allocated to the NO_x Budget opt-in unit under § 97.88 for any control period after the last control period for which the NO_x Budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x Budget opt-in unit's compliance account or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in unit is located contains the NO_x allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain the necessary NO_x allowances, the Administrator will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the Administrator will close the NO_x Budget opt-in unit's compliance account. If any NO_x allowances remain in the compliance account after completion of such deduction and any deduction under § 97.54, the Administrator will close the NO_x Budget opt-in unit's compliance account and transfer any remaining allowances to a general account specified by the owners and operators of the NO_x Budget opt-in unit.

[65 FR 2727, Jan. 18, 2000, as amended at 69 FR 21648, Apr. 21, 2004]

§ 97.88 NO_x allowance allocations to opt-in units.

(a) *NO_x allotment allocation.* (1) By April 1 immediately before the first control period for which the NO_x Budget opt-in permit is effective, the Administrator will determine by order

the NO_x allowance allocations for the NO_x Budget opt-in unit for the control period in accordance with paragraph (b) of this section.

(2) By no later than April 1, after the first control period for which the NO_x Budget opt-in permit is in effect, and April 1 of each year thereafter, the Administrator will determine by order the NO_x allowance allocations for the NO_x Budget opt-in unit for the next control period, in accordance with paragraph (b) of this section.

(3) The Administrator will make available to the public each determination of NO_x allowance allocations under paragraph (a)(1) or (2) of this section and will provide an opportunity for submission of objections to the determination. Objections shall be limited to addressing whether the determination is in accordance with paragraph (b) of this section. Based on any such objections, the Administrator will adjust each determination to the extent necessary to ensure that it is in accordance with paragraph (b) of this section.

(b) For each control period for which the NO_x Budget opt-in unit has an approved NO_x Budget opt-in permit, the NO_x Budget opt-in unit will be allocated NO_x allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO_x allowance allocations will be the lesser of:

(i) The unit's baseline heat input determined pursuant to § 97.84(c); or

(ii) The unit's heat input, as determined in accordance with subpart H of this part, for the control period in the year prior to the year of the control period for which the NO_x allocations are being calculated.

(2) The Administrator will allocate NO_x allowances to the unit in an amount equaling the heat input determined under paragraph (b)(1) of this section multiplied by the lesser of the unit's baseline NO_x emissions rate determined under § 97.84(c) or the most stringent State or federal NO_x emissions limitation applicable to the unit during the control period, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO_x allowances as appropriate.

Subpart J—Appeal Procedures

§ 97.90 Appeal procedures.

The appeal procedures for the NO_x Budget Trading Program are set forth in part 78 of this chapter.

[69 FR 21648, Apr. 21, 2004]

Subpart AA—CAIR NO_x Annual Trading Program General Provisions

§ 97.101 Purpose.

This subpart and subparts BB through II set forth the general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Federal Clean Air Interstate Rule (CAIR) NO_x Annual Trading Program, under section 110 of the Clean Air Act and § 52.35 of this chapter, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

§ 97.102 Definitions.

The terms used in this subpart and subparts BB through II shall have the meanings set forth in this section as follows:

Account number means the identification number given by the Administrator to each CAIR NO_x Allowance Tracking System account.

Acid Rain emissions limitation means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

Acid Rain Program means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under title IV of the CAA and parts 72 through 78 of this chapter.

Actual weighted average NO_x emission rate means, for a NO_x averaging plan under § 76.11 of this chapter and for a year:

(1) The sum of the products of the actual annual average NO_x emission rate and actual annual heat input (as determined in accordance with part 75 of this chapter) for all units in the NO_x averaging plan for the year; divided by

(2) The sum of the actual annual heat input (as determined in accordance with part 75 of this chapter) for all